

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JESUS CHRIST OPEN ALTAR
CHURCH, LLC

Plaintiff,

vs.

CITY OF HAWKINS, ALVIN FLYNN,
DONNAJORDAN, MIKE MAYBERRY,
TOM PARKER, HOWARD COQUAT,
WAYNE KIRKPATRICK, NORMAN
OGLESBY, CODY JORGENSEN AND,
STEPHEN LUCAS,
Defendants.

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CIVIL ACTION NO. _____

JURY DEMAND

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

COME NOW Defendants **CITY OF HAWKINS, TEXAS, ALVIN FLYNN, DONNA JORDAN, MIKE MAYBERRY, TOM PARKER, HOWARD COQUAT, WAYNE KIRKPATRICK, NORMAN OGLESBY, CODY JORGENSEN and STEPHEN LUCAS**, and file this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, and in support thereof, would show the Court the following:

1. On or about July 8, 2021, Plaintiff filed its "Plaintiff's First Amended Original Petition" in the 402nd Judicial District Court of Wood County, Texas, Cause No. 2021-300, naming CITY OF HAWKINS, TEXAS, ALVIN FLYNN, DONNA JORDAN, MIKE MAYBERRY, TOM PARKER, HOWARD COQUAT, WAYNE KIRKPATRICK, NORMAN OGLESBY, CODY JORGENSEN and STEPHEN as Defendants. Some of the Defendants were served with the First Amended Original Petition and process on or about July 19,

2021. The Defendants appeared and answered in the state court action on July 27, 2021.

2. **Grounds for Removal.** Some of Plaintiff's claims against Defendants are based upon claims for alleged deprivation of constitutional rights, actionable under the auspices of 42 U.S.C. §1983, which states in pertinent part, as follows:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . .

42 U.S.C. §1983. Specifically, Plaintiff alleges that it has suffered a violation of its First Amendment rights. See First Amended Petition, ¶ IV.04. Plaintiff alleges the following:

"The Church by establishing on its own property the sign "Jesus Welcome [sic] you to Hawkins" in exercising its constitutional rights of freedom of speech and freedom of religion is protected by law. Such rights shall not be interfered by any individual or entities. The City of Hawkins' unlawful seizure of such sign constitute a violation of the Church's First Amendment rights. The Church sues the Defendants jointly and severally liable for knowingly violating the Church's First Amendment rights."

See First Amended Petition, ¶ IV.04. Consequently, this Court has federal question jurisdiction over Plaintiff's constitutional claims pursuant to 28 U.S.C. §1331 which grants district courts jurisdiction over "all civil actions arising under the Constitution, laws, or treaties of the United States." Further, this Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. §1367.

3. **Compliance With Removal Statutes.** Defendants have complied with the requirements for removal set forth in 28 U.S.C. §1446(b). Plaintiff filed its Original Petition on June 28, 2021 (Exh. B); Plaintiff filed its First Amended Petition on July 8, 2021 (Exh. C); and citations for all Defendants were issued by the Wood County District Clerk's office

on July 14, 2021 (Exh. D). Most of the Defendants were served with a citation and Plaintiff's First Amended Petition on Monday, July 19, 2021. No Defendant was served with the citation and/or the First Amended Petition before July 19, 2021. Defendants filed their Answer (Exh. E) and their Jury Demand (Exh. F) in state court on July 27, 2021. Wednesday, August 18, 2021, is the 30th day following service of the citations that were served on some of the Defendants. Accordingly, this Notice of Removal, filed on July 27, 2021, is timely.

4. **Consent.** All Defendants consent to the removal of this civil action to federal court.

5. Pursuant to Local Rule CV-81, Defendants provide the following information:

a. List of Parties:

Plaintiff: JESUS CHRIST OPEN ALTAR CHURCH, LLC

Defendants: CITY OF HAWKINS, TEXAS
ALVIN FLYNN
DONNA JORDAN
MIKE MAYBERRY
TOM PARKER
HOWARD COQUAT
WAYNE KIRKPATRICK
NORMAN OGLESBY
CODY JORGENSON
STEPHEN LUCAS

b. Attachments:

1. Civil Cover Sheet
2. Certified Copy of State Court Docket Sheet (Ex. A)
3. Plaintiff's Original Petition (Ex. B)
4. Plaintiff's First Amended Petition (Ex. C)
5. Citations and Process issued Defendants (Ex. D)
6. Defendants' Original Answer and Defenses (Ex. E)
7. Defendants' Jury Demand (Ex. F)

c. List of Attorneys to date:

Counsel for Plaintiff:

William R. Power
1370 State Highway 276
Emory, Texas 75440
(903) 570-0785
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Counsel for Defendants:

Darren K. Coleman
State Bar No. 04558570
BOON CALK ECHOLS COLEMAN & GOOLSBY, P.L.L.C.
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- d. A jury demand was made in the State Court action by Defendants and, as part of its removal, Defendants make demand for a jury.
- e. This case is being removed from the 402nd Judicial District Court of Wood County, Texas, cause number 2021-300. The address of the state court is as follows: P O Box 1707, Quitman, Texas 75783-1707

**BOON CALK ECHOLS COLEMAN
& GOOLSBY, P.L.L.C.**
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/s/ Darren K. Coleman
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Lead Attorney

**ATTORNEYS FOR DEFENDANTS
CITY OF HAWKINS, ALVIN FLYNN, DONNA
JORDAN, MIKE MAYBERRY, TOM
PARKER, HOWARD COQUAT, WAYNE
KIRKPATRICK, NORMAN OGLESBY, CODY
JORGENSEN AND STEPHEN LUCAS**

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing instrument was served upon Plaintiff's counsel of record, as listed below, in the above entitled and numbered cause on July 27, 2021, in the following manner:

 X Via Electronic Mail (at powerlaw2020@gmail.com) and

 X Via CM/RRR: 7017 0190 0000 4789 8418
certified U.S. Mail at the following address:

William R. Power
1370 State Highway 276
Emory, Texas 75440

/s/ Darren K. Coleman
DARREN K. COLEMAN